

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FILED-CLERK
U.S. DISTRICT COURT
99 MAY 25 PM 4:20

IN RE NORPLANT CONTRACEPTIVE
PRODUCTS LIABILITY LITIGATION

TX EASTERN-BEAUMONT
MDL DOCKET NO. 1038

BY *Beverly Aulbaugh*

**WYETH'S MOTION FOR PARTIAL SUMMARY JUDGMENT
REGARDING THE LEARNED INTERMEDIARY DOCTRINE/CAUSATION**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COME NOW Defendants, Wyeth-Ayerst Laboratories, et al., and pursuant to Federal Rule of Civil Procedure 56, move for Partial Summary Judgment Regarding the Learned Intermediary Doctrine/Causation for the reasons set forth in the accompanying Memorandum in Support of such Motion. Defendants have met the requirements for a Partial Summary Judgment in their favor pursuant to Rule 56 and are entitled to judgment in their favor as a matter of law.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that this Motion for Partial Summary Judgment be granted after proper notice to Plaintiffs.

Respectfully submitted,

GERMER & GERTZ

By: *Paul W. Gertz*

Paul W. Gertz

805 Park Street
P.O. Box 3728
Beaumont, Texas 77704

WILLIAMS & CONNOLLY

John W. Vardaman
F. Lane Heard III

725 Twelfth Street, N.W.
Washington, D.C. 20005
(202) 434-5000

ATTORNEYS FOR DEFENDANTS

Of Counsel:

William J. Ruane
AMERICAN HOME PRODUCTS CORP.
Five Giralda Farms
Madison, NJ 07940-0874

Frank T. Rivas
WYETH-AYERST LABORATORIES
P.O. Box 8299
Philadelphia, PA 19101-8299

Dated: May 25, 1999

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was forwarded to all counsel of record on this 24th day of May, 1999 as follows:

Chris Parks, Esq.
Parker and Parks, L.L.P.
1 Plaza Square
Port Arthur, Texas 77642-5513

VIA HAND DELIVERY

Roger P. Brosnahan, Esq.
Brosnahan, Joseph & Suggs
Suite 500
701 Fourth Avenue South
Minneapolis, Minnesota 55415

VIA REGULAR MAIL

Turner W. Branch, Esq.
The Branch Law Firm
2025 Rio Grande Boulevard, N.W.
Albuquerque, New Mexico 87104

VIA REGULAR MAIL


Paul W. Gertz

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

**IN RE NORPLANT CONTRACEPTIVE
PRODUCTS LIABILITY LITIGATION**

:
:

**MDL DOCKET NO. 1038
ALL CASES**

ORDER

Upon consideration of Wyeth's Motion For Partial Summary Judgment Re The Learned Intermediary Doctrine/Causation, filed May 24, 1999, and the response thereto, it is ORDERED that the motion be and is hereby granted as to all plaintiffs (except those listed in Attachment A)¹ on all claims that Wyeth failed to provide adequate warnings about the following conditions: bleeding irregularities (specifically: many bleedings days or prolonged bleeding, spotting, amenorrhea, irregular onsets of bleeding, frequent bleeding onsets, scanty bleeding), infection at implant site, pain or itching at implant site, removal difficulties, headaches, nervousness, nausea, dizziness, adnexal enlargement, dermatitis, acne, change in appetite, mastalgia, weight gain, hair loss and hair growth, breast discharge, cervicitis, musculoskeletal pain, abdominal discomfort, leukorrhea, and vaginitis.

Signed this __ day of _____, 1999.

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE

¹ Attachment A would include the names of those plaintiffs, if any, who come forward in response to this motion with evidence that their health care provider was unaware of the side effects listed as "Adverse Reactions" in the physician labeling.